

Remarks

The above Amendments and these Remarks are in reply to the Office action mailed March 12, 2003. Claims 1-6 are presented herewith for consideration.

Rejection of Claims 1-6 Under 35 U.S.C. §102(e)

I. Summary of the Examiner's Objections

Claims 1- 6 were rejected under 35 U.S.C. §102(e) as being anticipated by U. S. Patent No. 6,295,541 (Bodnar et al.)

II. Summary of the Amendments

Claim 5 has been amended, claim 6 has been deleted and claims 7 – 17 added.

III. Remarks

All rejections herein are based on Bodnar et al. as a primary reference. Bodnar et al is only a reference under 35 U.S.C. §102(e). Applicant submits herewith a declaration under 37 C.F.R §1.131 swearing behind the Bodnar et al. reference.

It is respectfully submitted that the Declaration is proper as showing evidence of conception well prior to December 16, 1997, the earliest priority date of Bodnar et al., as well as diligence in reducing the invention to practice after conception.

Bodnar, et al. issued on September 25, 2001, after the filing date of the present application and is therefore only available as a reference under 35 USC §102(e). Bodnar et al. was filed August 18, 1998, but claims priority to provisional applications Ser. No. 60/069,731, filed Dec. 16, 1997, and entitled DATA PROCESSING ENVIRONMENT WITH SYNCHRONIZATION METHODS EMPLOYING A UNIFICATION DATABASE; Ser. No. 60/094,972, filed Jul. 31, 1998, and entitled SYSTEM AND METHODS FOR SYNCHRONIZING TWO OR MORE DATASETS; and Ser. No. 60/094,824, filed Jul. 31, 1998, and entitled DATA PROCESSING ENVIRONMENT WITH METHODS PROVIDING CONTEMPORANEOUS SYNCHRONIZATION OF TWO OR MORE CLIENTS. As noted in the MPEP SECTION 706.02:

A rejection based on 35 U.S.C. 102(e) can be overcome by:

(D) Filing an affidavit or declaration under 37 CFR 1.131 showing prior invention, if the reference is not a U.S. patent (or application in the case of a provisional rejection) claiming the same patentable invention as defined in 37 CFR 1.601(n).

A Section 1.131 affidavit is proper in this instance because Bodnar et al. claims methods and systems directed to “an arbitrary number of multiple datasets residing on different devices”, “a reference dataset that is used to store a super-set of most-recent data from all of the designated datasets” and “synchronizing all of the designated datasets”, while the present application is directed to collapsing data packages, including “combining... first and second data packages to define a combined data package having a combined transaction with the identification number”.

Hence, the claims of Bodnar et al. and the present application do not claim the same patentable invention.

Submitted herewith are:

- (1) Substitute Declaration For Patent Application;
- (2) Consent of Assignee to Correction of Inventorship Pursuant to 37 CFR §1.48 to add Richard Onyon; and
- (3) Declaration of Richard Onyon in Support of Petition to Correct Inventorship, setting forth facts establishing a date of invention prior to the priority date of December 16, 1997. This affidavit is hereby submitted under 37 C.F.R. §1.131 in order to overcome Bodnar et al. as a reference.

As set forth in the attached §1.131 Onyon Declaration, the invention recited in the claims of the present invention were conceived of earlier than the earliest possible date of Bodnar et al. as a prior art reference, and the inventors were diligent from the date of conception to the reduction to practice of the invention (as evidenced by prototypes of the invention). It is therefore respectfully submitted that the rejection of the claims over Bodnar et al. is overcome and the application is now in condition for allowance. Such allowance is respectfully requested.

The above Amendments and these Remarks are in reply to the Office action mailed January 29, 2003.

Based on the above amendments and these remarks, reconsideration of claims 1-6 and

consideration of claims 7 - 12 is respectfully requested.

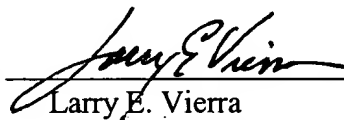
The Examiner's prompt attention to this matter is greatly appreciated. Should further questions remain, the Examiner is invited to contact the undersigned attorney by telephone.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: July 16, 2003

By: _____



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